

PRESIDING OFFICER'S
RULING NO. N2012-1/57

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Mail Processing Network
Rationalization Service Changes, 2012

Docket No. N2012-1

PRESIDING OFFICER'S RULING DENYING
AMERICAN POSTAL WORKERS UNION, AFL-CIO MOTION TO COMPEL
RESPONSES TO APWU/USPS-39-42

(Issued May 17, 2012)

On April 18, 2012, the American Postal Workers Union, AFL-CIO, filed a motion to compel responses to interrogatories APWU/USPS-39-42.¹ The interrogatories seek information related to costs associated with Highway Contract Route (HCR) services. The interrogatories were filed on April 6, 2012, the deadline for filing discovery for the purpose of developing intervenor testimony.² The Postal Service filed objections to providing responses on April 16, 2012.³ The Postal Service filed an answer to the Motion on April 20, 2012.⁴ The Motion is denied.

¹ American Postal Workers Union, AFL-CIO, Motion to Compel Responses to APWU Interrogatories APWU/USPS-39-42, April 18, 2012 (Motion).

² Interrogatories of the American Postal Workers Union, AFL-CIO to United States Postal Service (APWU/USPS-26-45), April 6, 2012; *see also* P.O. Ruling N2012-1/5, Presiding Officer's Ruling Establishing Procedural Schedule, January 12, 2012.

³ Objection of the United States Postal Service to American Postal Workers Union, AFL-CIO Interrogatories (APWU/USPS-39 through 42), April 16, 2012 (Objection).

⁴ Opposition of the United States Postal Service to American Postal Workers Union, AFL-CIO, Motion to Compel Responses to Interrogatories (APWU/USPS-39 through 42), April 20, 2012 (Answer).

APWU seeks responses to interrogatories APWU/USPS-39-42.

APWU/USPS-39. Provide a list of titles of postal personnel who are responsible for the procurement and management of HCR contracts and the number of people in those positions.⁵

APWU/USPS-40. Provide the total number of annual hours associated with the network or transportation specialists and the network supply management personnel associated with oversight of the HCR contracts (in the continental U.S.). Under which LDCs are these hours counted? In which category or categories of personnel are these personnel shown in the National Payroll Summary?

APWU/USPS-41. Provide a list of all costs associated with HCR procurement.

APWU/USPS-42. Provide the total number of HCR contracts currently in effect and the total number of miles and hours of operation associated with those contracts (in the continental U.S.).

The Postal Service objects to the interrogatories because they do not seek information relevant to the service change at issue. Objection at 1. The Postal Service argues that whether “transportation will ultimately be provided by PVS or HCR service is tangential to this aspect [design of the transportation network] of the Postal Service’s direct case” and “not necessary to determining whether the Postal Service’s proposal is consistent with the applicable policies of title 39.” *Id.* at 2-3. Furthermore, the Postal Service contends that the job titles of personnel who manage HCR contracts and the workhours devoted to contract oversight are even farther beyond the scope of this docket. *Id.* at 3.

⁵ APWU is willing to revise this interrogatory to state: “Provide the labor distribution code for the postal personnel who are responsible for the procurement and management of HCR contracts and the compensation costs, including all allocable service-wide costs associated with these personnel.” It will accept a response to either the original or revised interrogatory. Motion at 2.

Concerning interrogatory APWU/USPS-42, the Postal Service asserts that it already has provided information indicating which trip/routes are likely to comprise the new network and which of these trips/routes are serviced by PVS (Postal Vehicle Service) or HCR. The Postal Service contends the total number of HCR contracts has no bearing on its direct case. *Id.* at 3-4.

APWU contends that the information sought is relevant to the transportation costs and savings estimates provided by the Postal Service. Motion at 1. It asserts that the information is necessary to develop rebuttal testimony disputing the methodologies used by the Postal Service to calculate transportation cost savings estimates. *Id.* at 1-2.

APWU argues that the Postal Service has misallocated costs incurred to administer HCR contracts to other areas. It states the information will help show that the costs are greater than the zero amount the Postal Service used in its costs and savings calculations. It contends that an estimate of administrative costs not included in Postal Service projections will “allow APWU to rebut the transportation savings relied upon by the Postal Service in support of its network rationalization plan at issue in this docket.” *Id.* at 2.

APWU further contends that the interrogatories will aid in determining if the Postal Service is incorporating PVS numbers that should instead be included as HCR costs. Such determination will help to identify whether cost savings estimates are overstated. *Id.* at 3. Additionally, APWU states that it intends to use information requested by APWU/USPS-42 in combination with information provided by other interrogatories to rebut the “methodologies and assumptions used regarding the costs of PVS relative to HCRs,” and to demonstrate the Postal Service’s methodology is not reasonable and that the calculations are invalid. *Id.* APWU argues that such a rebuttal of transportation cost savings is relevant and discovery regarding such is permissible.

The Postal Service responds that the information sought by APWU has no material relation to the Commission’s advisory task. Answer at 2. It contends that even if the information would enable APWU’s development of rebuttal testimony that would challenge the Postal Service’s methodology and savings estimates, the purpose of the

docket is solely to achieve an advisory opinion on whether cost savings are an appropriate motivation for enacting service standard changes under section 3661 of title 39. *Id.* at 3. It states that the information pursued by APWU is unnecessary in obtaining that advisory opinion, and is unrelated to the advisory role of the Commission. *Id.*

The Postal Service maintains that APWU's proposed rebuttal testimony has no bearing on "whether the Postal Service may, consistent with the applicable policies of title 39, change its service standards *for the purpose of capturing* savings as the result of those service changes." *Id.* at 4 (emphasis in original). Further, the Postal Service argues that title 39 simply requires it to take into account current and projected future costs, and that it is not the Commission's role to determine the amount of savings necessary to justify a corresponding change in service. *Id.* at 4-5.

Discussion. As a preliminary matter, the Postal Service provides no statutory justification or legislative history to support its contention that the Commission's task in this case is simply to decide if theoretically, cost savings may provide adequate justification for service reductions. Section 3661 directs the Commission to provide an advisory opinion, and it should be obvious that the amount of potential savings are an essential aspect of an appropriate Commission analysis. The fact that the Postal Service itself provides testimony from multiple witnesses to quantify expected savings reflects the importance of that inquiry.

That being said, the Commission's focus must center on potential cost savings related to the Postal Service proposal, as opposed to broad inquiries directed towards whether the Postal Service might be able to achieve cost reductions unrelated to its pending proposal. The detailed discovery requests at issue here seek extensive administrative and financial information related to the management of HCR contracts. APWU explains that this line of inquiry is designed to allow development of an estimate of the administrative costs of obtaining and managing HCR transportation, and the exploration of cost trade-offs between HCR and PVS transportation.

While an inquiry into comparative costs of alternate means of transportation may be potentially beneficial to Postal Service management, it does not appear to relate in a material way to the Postal Service proposal in this docket.

Similarly, the extensive national information sought would seem useful primarily to develop broad national averages of costs not previously identified as volume variable. Even accepting APWU's premise that the Postal Service has failed to attempt to quantify potential administrative costs related to HCR transportation, the limited potential for material probative evidence resulting from such an exercise does not outweigh the cost and delay that would result from initiating such an effort at this time.

RULING

The American Postal Workers Union, AFL-CIO, Motion to Compel Responses to APWU Interrogatories APWU/USPS-39-42, filed April 18, 2012, is denied.

Ruth Y. Goldway
Presiding Officer